

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
STATEMENT OF
ADMIRAL JAMES LOY
ON
NATIONAL TRANSPORTATION SAFETY BOARD AMENDMENTS OF 1999
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
UNITED STATES SENATE
JULY 15, 1999

Good morning, Mr. Chairman and distinguished members of the Subcommittee. I am Admiral James Loy, Commandant of the United States Coast Guard. I am pleased to have the opportunity to provide you with the views of the Coast Guard concerning a legislative proposal transmitted to the House of Representatives on April 27, 1999, by the National Transportation Safety Board (NTSB). This legislative proposal, entitled the "National Transportation Safety Board Amendments of 1999," re-authorizes the NTSB through 2002 and includes provisions concerning the jurisdiction and the primacy of the NTSB over marine casualty investigations that could adversely affect the Coast Guard's role in ensuring public safety. I would like to address the provision of greatest concern today.

Current law prescribes the NTSB's authority to investigate transportation accidents with priority over any other agency's transportation investigation, except for marine casualties. Section 7 of the NTSB's proposal would give the NTSB primacy in marine casualty investigations as well. The Coast Guard strongly opposes this proposed change. The Coast Guard's reasons for opposing the proposed changes to the NTSB primacy in marine casualty investigations are set out below.

Operational Control of the Response to a Marine Casualty and Control of the Investigation Should Not Be Divided. The complexity of marine casualties necessitates a single on-scene lead agency. The U.S. Marine Transportation System is a critical component of our national transportation system. Our marine infrastructure

supports our engagement in world affairs, including protection of U.S. national security interest. The variety of marine equipment—from cruise ships to freight vessels to mobile offshore drilling units and more—is enormously complex. Marine casualties are typically quite different from other transportation accidents. A marine casualty incident can last for weeks as an ongoing event, beginning with intense and risky search and rescue operations, fire-fighting, or damage control, and transitioning to waterway closures, marine traffic control issues, salvage efforts and pollution response. These response actions generally occur concurrently with the investigation of the incident. Moreover, there are often other Federal, State and local agencies involved, and coordination among all of the involved parties is vital to the overall success of the operation. Under Federal Law, the Coast Guard Captain of the Port has unique authorities and the responsibility to direct and coordinate these response activities. The Coast Guard-wide adoption of the Incident Command System (ICS), based on the National Interagency Incident Management System (NIIMS), for all response operations has strengthened the Coast Guard's already extensive capability in marine casualty response and investigations. Its use has been particularly effective in providing a common response organization and process that non-Coast Guard personnel can assimilate rapidly. Marine casualties almost always result in the need for other organizations to be represented during the response and investigation. Through the ICS system, the Coast Guard establishes a seamless relationship with other involved parties during the response and investigation of a marine casualty.

Giving primacy to the NTSB for marine casualty investigations with the Coast Guard responsible for response activities would increase the potential for confusion and disruption of critical operations. The ability of Coast Guard operational commanders to safely and efficiently conduct their multifaceted response operations could also be impaired.

Marine Casualties Provide Vital Feedback for Prevention Activities.

Investigations of marine casualties provide critical information about the safety risks of specific vessel types and operating conditions that help the Coast Guard to better focus its prevention efforts. The Coast Guard has extensive technical expertise in naval architecture, marine engineering, and salvage. Our personnel have a strong seagoing expertise by the very nature of the service, as well as an intimate knowledge of commercial vessels and their operation gained from daily interactions as part of our regulatory responsibilities. These capabilities permit Coast Guard investigators to quickly focus on potential causal factors which can be extraordinarily complex in marine systems. The current process allows the Coast Guard to take the lead in those investigations it considers most vital in refocusing casualty prevention programs. In cases in which an investigation uncovers safety issues that appear urgent, the current process enables the Coast Guard to issue safety alerts quickly and commence regulatory program changes based on compelling interim findings. For example, in the recent sinking of the vessel MISS MAJESTIC at Hot Springs, Arkansas, two safety alerts were issued-the first was issued 5 days after the casualty and the second 13 days later.

Concern Over Coast Guard Impartiality is Unfounded. The joint Coast Guard and NTSB regulations, as well as the Memorandum of Understanding (MOU) between the two agencies, ensure that any potential conflicts of interest are fully considered in determining which agency should take the lead role in an investigation. Each year the Coast Guard investigates approximately 5,000 marine casualties of which about 50 are classified as major casualties. Over the nearly 60 years of successful Coast Guard leadership, the record amply demonstrates that its investigations are fair, impartial and effective. That record has never been seriously questioned. When the Coast Guard designates a Marine Board of Investigation or other formal investigation, the investigators are selected from outside the chain of command of the “regulating unit”, specifically to avoid conflicts of interest or any appearance of bias. Parties to a formal

investigation are allowed to be represented by counsel and have the right to cross-examine witnesses under oath. Furthermore, the NTSB is always invited to participate as a full partner in the investigation, allowing it the opportunity to call witnesses and to ensure the openness and impartiality of the Coast Guard investigation.

Conclusion-The Current Process Functions Well and Should Not Be Changed. The existing MOU and regulations allow the NTSB to fully participate in all marine casualty investigations and to lead those investigations where appropriate. Given the Coast Guard's unique expertise and the operational considerations that so often accompany marine casualties, the Coast Guard must be able to determine how the investigation should proceed. The existing process protects the safety of the maritime community while also addressing the environmental and operational needs of the marine transportation system. The current system need not and should not be changed.

Thank you for the opportunity to state the Coast Guard's views on this legislative proposal.